Filed 2/24/09 P. v. Silva CA2/4

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. STEVEN THOMAS SILVA, Defendant and Appellant.	B204617 (Los Angeles County Super. Ct. No. KA079278)

APPEAL from a judgment of the Superior Court of Los Angeles County, Daniel J. Buckley, Judge. Affirmed.

Richard M. Doctoroff, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Paul M. Roadarmel, Jr. and Eric J. Kohm, Deputy Attorneys General, for Plaintiff and Respondent.

Steven Thomas Silva appeals from the judgment entered following a court trial in which he was convicted of hit and run driving where property is damaged, a misdemeanor (Veh. Code, § 20002, subd. (a)), and acquitted of assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)) and willful harm to a child (Pen. Code, § 273a, subd. (b)), both misdemeanors. Imposition of sentence was suspended, and he was placed on summary probation. He contends there was insufficient evidence to sustain his conviction. For reasons stated in the opinion, we affirm the judgment.

FACTUAL AND PROCEDURAL SUMMARY

On March 8, 2007, Sarah Lewis was driving her Ford Explorer vehicle eastbound on Bonita Avenue approaching Wheeler Avenue in the City of La Verne when she realized she was in a "right turn only" lane. She merged into the left lane, causing the car behind her, a white Dodge truck, to slow down. When she stopped at a red light at the intersection, the same white Dodge truck was behind her. After both vehicles had stopped, the truck bumped into her vehicle. Lewis described it as a "tap," as if the driver had removed his foot from the brake and the car kept rolling. Lewis had her foot on the brake and her car moved just slightly. She did not think the tires rolled. Lewis put her car in "park" to figure out if she had been hit and looked in her rearview mirror, making eye contact with appellant, the driver of the truck. Appellant and his daughter were laughing. Appellant looked directly at Lewis, shrugged his shoulders, and lifted his hands "almost to say sorry, what are you going to do."

While Lewis's car was still in "park" and while she still had her foot on the brake, her car was "pushed forward" about two to three feet. Lewis testified, appellant "apparently put his foot on the gas and moved [Lewis's] car a few feet forward." When Lewis rolled down her window and put her hand and head out of the window to inquire what they should do, appellant backed up his truck, drove around her, and stopped in front of her for a red light. When the light turned green, appellant drove through the intersection and continued to drive away. Lewis made eye contact with appellant and picked up her cell phone. Appellant "saw [Lewis] write down his license plate number and call 9-1-1." Lewis then followed appellant for approximately five to ten miles until

she saw a police officer stop him. Within the five to ten miles, there were safe places where appellant could have stopped to talk to her about the incident, but appellant never attempted to do that. Prior to being stopped by the police, appellant never got out of his truck and never provided Lewis his name, address, or insurance information. Lewis was not injured in the incident.

Lewis testified her vehicle was damaged as a result of the incident. Because the car was in "park" at the time it was hit, the transmission was damaged. Additionally, the "bumper got rubbed a little" but nothing she would have repaired. She noticed the damage immediately but was able to drive the car. She described the damage as "[w]hen you would stop the car and try to put it in park, you had to fight with it a little bit; so it was like the transmission was kind of stuck." Prior to the incident she was able to "go from . . . drive to park smoothly." After the incident she had to force it into park.

On July 18, 2007, her car was repaired at a cost of $399.34. Included in the cost was $165.65 for a failed battery. Lewis did not repair the car until July because she was on maternity leave and was not using it.

After appellant was stopped by the police, he initially denied hitting Lewis's vehicle. When La Verne Police Officer Jason Prows said he could see damage to the front of appellant's truck and believed appellant was lying, appellant said, "I just bumped her. I wanted to get her attention." The damage was minor, but the officer could see that "the bumper was tweaked a little bit out of alignment." At trial, Officer Prows testified while no damage was visible on photographs taken of the vehicles, he was absolutely sure he saw damage to the front of the Dodge truck that night. Officer Prows interviewed appellant's daughter. She told him that "the victim had cut them off, and her dad couldn't stop in time, and he bumped her."

In defense, Scott Naramore, an accredited accident reconstructionist, testified he reviewed the reports prepared by the police department and the preliminary hearing testimony. He obtained "the dimensional data for the involved vehicles through auto stats [and] reviewed the Insurance Institute for Highway Safety's crash test data relative to both vehicles involved." Eight months after the incident, he inspected the Dodge

truck. When he does a vehicle inspection, he uses a measuring device to verify the dimensional data in auto stats and also to compare it with any contact or potential contact there would have been with the other vehicle. He checked the dimensions on the vehicle and it was consistent with the statistical information. He was unable to inspect the Ford Explorer. He reviewed photographs of, along with the repair estimate and service order for, the Ford Explorer. He opined "[a]ny collision contact that would have occurred between the two vehicles was extremely incidental. The closing speed, if there was in fact contact between the vehicles, would have been less than two miles per hour." Testimony that the Ford Explorer was pushed from behind two to three feet, would be contrary to the photographs, reports, and findings he reviewed. To push the Ford two to three feet would have required a closing speed of between eight to fourteen miles per hour at a minimum. Had that occurred, he would expect to find "fairly significant damage." "[He] found no damage at all" and no evidence that any repairs had been made. He did not interview appellant.

Naramore looked at the invoices for the repair work done on the Ford Explorer. The "solenoid" referred to on the invoice is an electrical component that allows aspects of the vehicle to function, in this case, the transmission. He doubted there would be damage to the solenoid if there had been an impact during which the Dodge had pushed the Ford two to three feet. There was no reference in the materials he had that there was any transmission problem.

Jason Forsyth is service manager at the Ford of Upland dealership. He has no formal training in automobile mechanics and has not fixed vehicles himself. He was not involved in the repair of the Ford Explorer in July 2007, but provided the defense investigator with the invoice. According to his records, there was no damage to the vehicle's transmission. The problem was in the steering column where the shift is located. When the driver puts his or her foot on the brake, the solenoid releases a pin that allows the driver to put the vehicle in or take it out of "park." Solenoids just fail. A collision should not affect the solenoid. Forsythe has not personally determined what causes the shift solenoid to malfunction. He never viewed Lewis's vehicle.

Gregg Porter, transmission master technician for Ford of Upland, received the vehicle after the repair order was written. He did not perform the repair but performed the diagnosis. He determined the vehicle did not have a transmission problem but a problem in the steering column.

At the conclusion of the evidentiary portion of the trial, the court gave a tentative ruling to help the parties focus their arguments. As to count 3, the court stated it "firmly believe[d] that there was some type of a collision created by [appellant]. I think there is enough to satisfy some element of damage, and I do think it was a hit-and-run driving. So my tentative would be to find guilt on count 3." The court indicated it did not believe the prosecution had been able to prove transmission damage but that there was enough "damage, scratches" described by the officer and/or the victim. In response to the defense argument that the photographs did not establish damage, the court responded they had "the testimony of both the victim, who I think was pretty candid on it, but that there was very minor scratches or whatever, nothing that warranted fixing, and you have the officer's testimony." After the defense argued the victim was not credible and that defense counsel did not "believe [Lewis's] credibility should be valued," the court found appellant guilty as to count 3.

DISCUSSION

Appellant contends there is insufficient evidence to sustain his conviction under Vehicle Code section 20002.[1] We disagree. To constitute a violation of Vehicle Code section

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[1] Vehicle Code section 20002 provides in pertinent part "(a) The driver of any vehicle involved in an accident resulting only in damage to any property, including vehicles, shall immediately stop the vehicle at the nearest location that will not impede traffic or otherwise jeopardize the safety of other motorists. . . . The driver shall also immediately do either of the following: [¶] (1) Locate and notify the owner or person in charge of that property of the name and address of the driver and owner of the vehicle involved and . . . upon being requested, present his or her driver's license, and vehicle registration, to the other driver, property owner, or person in charge of that property. . . . [¶] (c) Any person failing to comply with all the requirements of this section is guilty of a misdemeanor . . . ."

20002, subdivision (a), the prosecution must prove a defendant "(1) knew he or she was involved in an accident; (2) knew damage resulted from the accident; and (3) knowingly and willfully left the scene of the accident (4) without giving the required information to the other driver(s)." (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1123, fn. 10; *People v. Crouch* (1980) 108 Cal.App.3d Supp. 14, 21.)

"The standard of review is well settled: On appeal, we review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citations.] '"[I]f the verdict is supported by substantial evidence, we must accord due deference to the trier of fact and not substitute our evaluation of a witness's credibility for that of the fact finder."' [Citation.] 'The standard of review is the same in cases in which the People rely mainly on circumstantial evidence. [Citation.] "Although it is the duty of the jury to acquit a defendant if it finds that circumstantial evidence is susceptible of two interpretations, one of which suggests guilt and the other innocence [citations], it is the jury, not the appellate court which must be convinced of the defendant's guilt beyond a reasonable doubt."' [Citation.]" (*People v. Snow* (2003) 30 Cal.4th 43, 66.)

"[T]he direct testimony of a single witness is sufficient to support a finding unless the testimony is physically impossible or its falsity is apparent 'without resorting to inferences or deductions.' [Citations.] Except in these rare instances of demonstrable falsity, doubts about the credibility of the in-court witness should be left for the jury's resolution . . . ." (*People v. Cudjo* (1993) 6 Cal.4th 585, 608-609.)

The trial court indicated it believed victim Lewis and Officer Prows. Lewis testified appellant struck her vehicle with his truck, slightly damaging her bumper, and fled the scene without stopping to exchange information. After their vehicles collided, Lewis put her head and hand out of her window in an attempt to communicate with appellant. She and appellant made eye contact, and he observed her writing down his license plate number and making a call on her cell phone. Officer Prows testified that

appellant and his passenger acknowledged appellant's vehicle bumped Lewis's. Prows testified he observed appellant's vehicle immediately after the accident and was absolutely sure there was damage. A reasonable trier of fact could have concluded appellant knew he was involved in an accident, knew or should have known he caused some damage, and willfully left the scene of the accident without giving the required information to Lewis. Substantial evidence supports the conviction. (See *People v. Carter* (1966) 243 Cal.App.2d 239, 242.)

DISPOSITION

The judgment is affirmed.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.